Manitoba Justice

Seizure and Impoundment Registry

Annual Report 2003 - 2004

Manitoba

105-03134/

ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable John Harvard, P.C., O.M.
Lieutenant-Governor of Manitoba

MAY IT PLEASE YOUR HONOUR:

It is my privilege to present, for the information of Your Honour, the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2004.

Respectfully submitted,

Honourable Gord Mackintosh
Minister of Justice
Attorney General

Manitoba

Deputy Minister of Justice
and Deputy Attorney General

Room 110
Legislative Building
Winnipeg MB R3C 0V8

Honourable Gord Mackintosh
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

I submit for your approval the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2004.

Respectfully submitted,

Bruce A. MacFarlane, Q.C.
Deputy Minister of Justice and
Deputy Attorney General

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Introduction

In November 1989, the Government of Manitoba enacted legislation to reduce the negative social impacts associated with impaired and suspended drivers.

Under this legislation, peace officers were given expanded powers to seize and impound a motor vehicle when they had reason to believe it was being operated by a person who was suspended, disqualified or otherwise prohibited from driving in Manitoba.

Since November 1989, the Vehicle Impoundment Program has expanded in two ways:

a) the current vehicle impoundment sanctions for driving while disqualified were extended to include alcohol-related offences and as well, amendments were introduced to extend the impoundment sanctions to the operators of off-road vehicles.

b) the Government introduced measures that result in the forfeiture of vehicles where an offender is convicted of a prostitution-related offence.

The Seizure and Impoundment Registry is the administrative centre where the status of each vehicle seized in the Province of Manitoba is recorded. Records maintained by the Registry include the name of the driver, the owner, the police agency, and the location of each seizure. As well, statistics are kept as to the number of hearings conducted by justices, all claims that the owner or garage keeper has applied for, and the number of wrongful seizures. The Registry also maintains continuous contact with any garage keeper that stores a vehicle impounded under this legislation.

Program Summary

a) Suspension and Alcohol-Related Seizures

In November 1989, legislation was introduced to allow a peace officer to seize and impound a motor vehicle for 30 days, if operated while the driver was suspended or prohibited from driving.

Since November of 1989, the following changes to the legislation have been enacted:

- In December 1991, the impoundment period increased to 60 days for an owner considered to be a repeat offender within a two-year period.
- In September 1997, the extension period for repeat offenders increased to 90 days, the administration fee increased to $75, and the application fee for a revocation hearing increased to $100.
- In December 1999, the offences of Drive Over .08 and Refuse to Provide Breath or Blood Sample were included in the seizure provisions. As well, off-road vehicles are now considered to be motor vehicles for the seizure legislation.
- On December 1, 2000, the legislation was further amended to double the impoundment periods for certain offenders. As a result, people driving with a blood alcohol level over .16 or drivers who refuse to provide a breath or blood sample will lose their vehicle for 60 days on a first offence, and 180 days for a second offence. Each subsequent offence will add another 60 days to the impoundment period. As well, the time period for calculating a repeat offence increased from two years to five years.
- In July 2002, the administration fee increased to $115.

An owner has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The impoundment may be revoked if the justice is satisfied that:

a) the owner could not reasonably have been expected to know that the person driving the motor vehicle:
    - was suspended or prohibited from driving;
    - would operate or have care or control of a vehicle while their blood alcohol level was over .08;
    - would fail or refuse to provide a breath sample.

OR

b) the owner did not know that he or she was suspended or prohibited from driving.

The designate of the Minister of Justice may release the motor vehicle if he or she is satisfied that the vehicle has been wrongfully seized and impounded, or if the vehicle was reported stolen at the time of the impoundment.

This legislation also gives the designate of the Minister of Justice the authority to transfer the ownership of any vehicle to the garage keeper who stores it if the vehicle remains unclaimed after the expiration of the impoundment period, and if the value of the vehicle is less than the amount owing to the garage keeper.

Upon completion of the impoundment period, the owner of the vehicle is liable for all costs related to the impoundment of the vehicle, including the costs of towing, storage and the $115 administration fee levied to offset the provincial cost to administer the program. On average, the total cost to the owner to have his or her vehicle released is approximately $445 after completion of the 30-day impoundment period or approximately $719 after completion of a 60-day impoundment period.

Under Section 242.1(12) of The Highway Traffic Act, the owner of the motor vehicle may seek to recover any costs from the person who was the driver at the time the motor vehicle was seized.

b) Prostitution-Related Seizures

In March 1999, legislation was introduced to allow a peace officer to seize and impound a motor vehicle if operated in the course of committing a prostitution-related offence under the Criminal Code.

If an owner is convicted of the offence, the vehicle is forfeited to the Province of Manitoba with the net proceeds from the sale of the vehicle used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

If the driver of a seized vehicle is eligible for a program of alternative measures, the vehicle can be released subject to payment of the appropriate costs and charges.

The owner, who is not the driver, has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The justice may revoke the impoundment if he or she is satisfied that the owner could not reasonably have known that the vehicle was being operated in the course of committing a prostitution-related offence.

If an owner is charged with a prostitution-related offence, he or she may apply to the designate of the Minister of Justice for the release of the vehicle on deposit of a sum of money or security for money equal to the value of the vehicle. If the owner is convicted of the charge, the deposit is forfeited to the Province of Manitoba. If the owner is not convicted of the charge, the deposit is returned.

Impoundment Program Results

a) Suspension and Alcohol-Related Seizures

During the reporting period, 3,347 vehicles were impounded, compared to 3,663 vehicles impounded during the same period in F2002/03. This represents a one year decrease of 316 seizures or 0.94%. Of the 3,347 vehicles seized, 61 were off-road vehicles seized as a result of a suspension or an alcohol-related offence.

There are currently 63 Justices who have been appointed by the Chief Judge of the Provincial Court of Manitoba to conduct impoundment hearings. In F2003/04, 875 owners applied for a revocation hearing and 723 or 83% successfully had their impoundments revoked before the expiration of the impoundment period. Of the total seizures in F2003/04, 22% were revoked, whereas 4.5% of the total seizures were ordered to be continued.

There are currently 144 garage keepers registered with the Vehicle Impoundment Program, with approximately 96 participating on a monthly basis.

b) Prostitution-Related Seizures

During the reporting period, 61 vehicles were impounded. Of these seized vehicles, 45 or 73.8% were released as a result of the driver being eligible for the alternative measures program. Ten of the owners applied to a justice and were successful in having the vehicle released.

Since the introduction of this legislation, one vehicle and four security deposits have been forfeited to the Province of Manitoba as a result of convictions being entered. The net proceeds will be used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

Fiscal Year	Seized Vehicles	Alternative Measures	Order of A Justice
2002/2003	42	31	5
2001/2002	74	59	7
2000/2001	87	76	8
1999/2000	86	77	6

Tables and Supporting Charts

a) Suspension and Alcohol-Related Seizures

A summary of results for the reporting period is provided in Tables 1 to 7 and Chart 1 attached to this report. The data contained in this report is based on information forwarded by various police agencies, court offices, garage keepers and Justices throughout the Province.

Reported numbers from previous years may vary from previously issued reports as the data is continually updated with information that may be received from the various agencies after the reporting date.

Table 1

Monthly Statistics for the fiscal year ending March 31, 2004

Month	Total Vehicles Seized	Vehicles Claimed		Vehicles Disposed / Unclaimed	
April 2003	283	213	75%	70	25%
May 2003	322	249	77%	73	23%
June 2003	307	228	74%	79	26%
July 2003	308	226	73%	82	27%
August 2003	330	238	92%	92	28%
September 2003	256	181	71%	75	29%
October 2003	315	244	77%	71	23%
November 2003	236	182	77%	54	23%
December 2003	272	206	76%	66	24%
January 2004	187	126	67%	61	33%
February 2004	276	140	51%	136	49%
March 2004	255	41	16%	214	84%
Total Vehicles Seized	**3347**	**2274**	**68%**	**1073**	**32%**

Table 2

Status of Vehicles Seized

Vehicles Claimed		2,274
Vehicles Transferred		137
Vehicles Auctioned		122
Vehicles Released		121
Vehicles Unclaimed		
60 days & under	340	
61 to 90 days	44	
91 days & over	309	
Total		693
Total Number of Vehicles Seized		**3,347**

Table 3

Age Analysis

This table represents data for the fiscal year April 1, 2003 to March 31, 2004.

Age of Driver	April 1, 2003 to March 31, 2004	
16 to 20	519	15.51%
21 to 25	699	20.88%
26 to 30	496	14.82%
31 to 35	389	11.62%
36 to 40	356	10.64%
41 to 45	327	9.77%
46 to 50	218	6.51%
51 to 55	148	4.42%
56 to 60	88	2.63%
61 to 65	48	1.43%
66 to 70	30	0.90%
71 to 75	17	0.51%
76 to 80	5	0.15%
81 plus	7	0.21%
	3347	**100.00%**

Chart 1

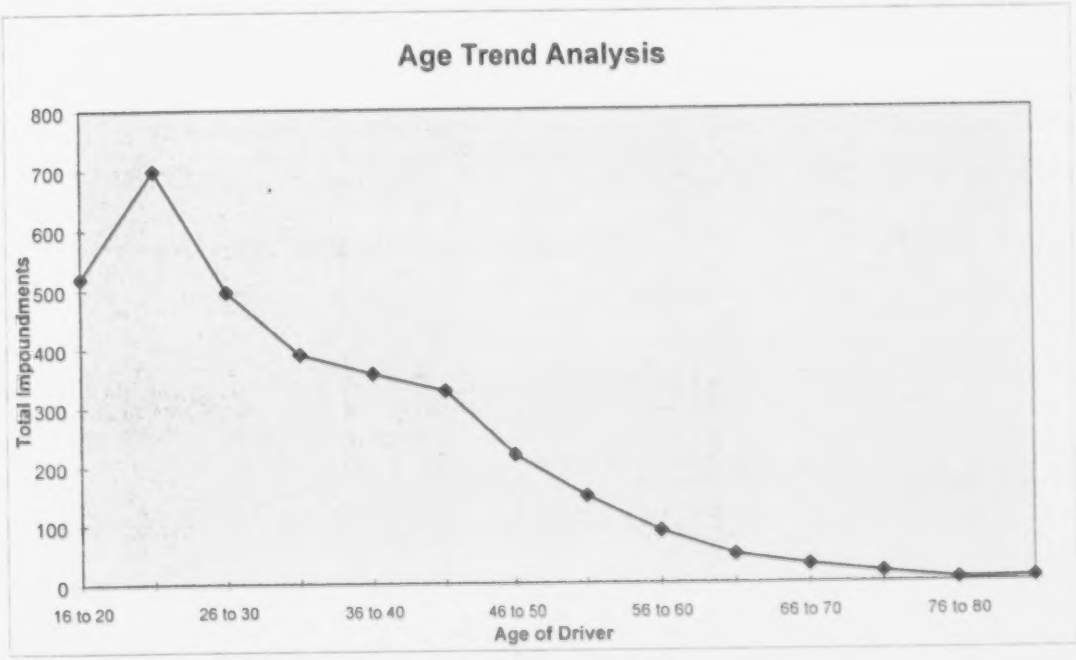

Table 4

Seizures and Applications for Orders of a Justice Section 242.1(4) of The Highway Traffic Act

(A hearing for the revocation of an impoundment of a motor vehicle)

This table represents data for the fiscal year April 1, 2003 to March 31, 2004.

Region	Total Vehicles Seized		Applications to Revoke (% - total seizures)		Seizures Revoked (% - total applications)		Seizures Continued (% - total applications)	
Winnipeg	1366	41%	499	37%	402	81%	97	19%
Regional	1981	59%	376	19%	321	85%	55	15%
Total	**3347**	**100%**	**875**	**26%**	**723**	**83%**	**152**	**17%**

The total number of applications to revoke represents 26% of the total seizures for the reporting period.

Successful revocations represents 83% of all applications.

Table 5

Extension of Vehicle Impoundment Period for Repeat Offenders Sections 242.1(7.1.1) & (7.1.2) of The Highway Traffic Act

Month	Extensions Issued	Extensions Completed	Impoundment Revocations
April 2003	41	34	7
May 2003	45	41	4
June 2003	42	36	6
July 2003	51	41	10
August 2003	53	45	8
September 2003	44	35	9
October 2003	38	32	6
November 2003	31	28	3
December 2003	38	32	6
January 2004	22	20	2
February 2004	44	40	4
March 2004	38	33	5
TOTAL	**487**	**417**	**70**

On December 1, 1991, legislation was proclaimed to extend the impoundment period from 30 to 60 days for owners with more than one occurrence within a two-year period.

On September 1, 1997, the legislation was amended to increase the extended impoundment period from 60 to 90 days for the owner who has had a previous occurrence.

On December 1, 2000, the legislation was amended to allow for increased impoundment periods for repeat offenders. Where the legislation previously allowed for owners to receive an extended impoundment period of 90 days, regardless of the number of prior offences, the amendments now allow for 60 days to be added to the initial impoundment period for each subsequent offence that an owner has committed.

Of the total number of vehicles seized in the F2003/04 fiscal year, 15% were impounded for an additional period under this section of The Highway Traffic Act. In this fiscal year, the number of extensions issued has increased by 2% or 9 seizures as compared to the previous fiscal year.

Note: Since proclamation of this legislation, a total of 3,992 extensions were issued from the Impoundment Registry. This figure represents 13% of the 30,939 seizures issued over the period of the legislation allowing extensions.

Table 6

Number of Offenders - Repeat Owners

This table represents the number of owners who have had a vehicle seized and impounded on two or more occasions. Effective December 1, 2000, subsequent offences that occur within a five-year period are recorded as a repeat offence.

This data includes owners who were either the driver of the vehicle or who had, on more than one occasion, allowed their vehicle to be operated by a different driver.

Owners	Number of Offenders	Number of Vehicles Involved	Vehicles Driven by Owner	Vehicles Driven by Another
2x repeaters	1441	2882	1352	1530
3x repeaters	250	750	354	396
4x repeaters	49	196	84	112
5x repeaters	16	80	28	52
6x repeaters	2	12	0	12
7x repeaters*	1	7	0	7
9x repeaters*	2	18	0	18
11x repeaters*	1	11	0	11
13x repeaters*	1	13	0	13
17x repeaters*	1	17	0	17
20x repeaters*	1	20	0	20
55x repeaters*	1	55	0	55
Total	**1766**	**4061**	**1818**	**2243**

*This repeat offender represents a car rental business, not an individual person.

Note: As the legislation was intended to focus on the owner of the vehicle as the responsible party, the analysis concentrates on repeat owner statistics. During the same reporting period 4,869 vehicles were seized in which the driver of the vehicle had been involved in a previous impoundment either as the owner of a seized vehicle or as the driver of a vehicle owned by another party.

Repeat drivers account for 27.9% of all seizures over the same period.
Repeat owners account for 23.3% of all seizures over the same period.

Table 7

Financial Report

Note: This report includes revenue received from vehicle seizures as a result of suspension and alcohol-related offences, as well as prostitution-related offences.

Revenue	April 1, 2003 to March 31, 2004	
Provincial Fees Collected:		
Suspension/Alcohol-Related Offences	$321,095.00	
Prostitution-Related Offences	$7,820.00	
Total Revenue		**$328,915.00**
Claims/Refunds:		
Suspension/Alcohol-Related Offences		
-Provincial fees refunded	($115.00)	
-Claims settled for direct costs	($ 65.00)	
Prostitution-Related Offences		
-Provincial fees refunded	0.00	
-Claims settled for direct costs	0.00	
Total Costs		**($180.00)**
Net Revenue		**$328,800.00**